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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,502	08/03/2000	Charanpreet S. Bagga	6683.44US01	9162

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EXAMINER
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BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/631,502

Applicant(s)

BAGGA ET AL.

Examiner

Jessica R Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/17/2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. A rejection was made under 112 2<sup>nd</sup> paragraph. Correction is noted and the rejection is withdrawn.

### *Claim Rejections - 35 USC § 102*

2. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being anticipated by U.S. Patent No. 5,685,673 to Jarvis.

Regarding claim 1, Jarvis discloses a surgical instrument comprising a shaft (29), a working head (31) comprising a blade having a serpentoid configuration (FIGS. 9 and 11) and a first cutting surface and a second cutting surface (34' and 39'), and a collecting element (32' and 33').

Regarding claim 2, Jarvis discloses that the first cutting edge faces the opposite direction of the second cutting edge (FIG. 19).

Regarding claim 3, Jarvis discloses that the leading surface has a distal taper (FIG. 18).

Regarding claim 4, Jarvis discloses that the blade has a first diameter dimension greater than a second diameter dimension (FIG. 19).

Regarding claims 5, 12 and 20, Jarvis discloses that the collecting element has a peripheral surface that does not extend radially beyond the first and second cutting edges (FIG. 18).

Regarding claims 6, 13 and 21 Jarvis discloses a handle (FIG. 17).

Regarding claim 7, Jarvis discloses a surgical device comprising a shaft (29), a blade having a first concave surface and first cutting edge and a second concave surface and a second cutting edge (FIG. 19), the blade edge at each end of the height dimension, and a diagonal dimension greater than the height dimension (FIG. 19).

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Regarding claim 8, Jarvis discloses a collecting element at said leading end of said blade, the collecting element overlies a portion of the first concave surface (FIGS. 18 and 19).

Regarding claim 9, Jarvis discloses the structure that allows the cutting edges to have two different orientations, a cutting and a non-cutting orientation (Column 5 lines 9-13).

Regarding claim 10, Jarvis discloses a tapered surface of the collecting element and a collecting surface facing away from the blade (FIGS. 18 and 19).

Regarding claim 11, Jarvis discloses the first cutting edge is facing in a direction opposite the second cutting edge (FIG. 19 lip 34' and 39').

Regarding claim 14, Jarvis discloses a curette comprising a shaft (29), a blade with an undulating configuration and first and second cutting edges (30), and a collecting element (32' and 33').

Regarding claim 15, Jarvis further discloses that the blade has a first concave region facing the opposite direction of the second concave region (FIG. 19 lips 34' and 39').

Regarding claim 16, Jarvis discloses that the first concave region is adjacent a second convex region and the second concave region is adjacent a first convex region (FIG. 19).

Regarding claim 17, Jarvis discloses the structure that allows the cutting edges to have two different orientations, a cutting and a non-cutting orientation (Column 5 lines 9-13).

Regarding claim 18, Jarvis discloses that the first cutting edge is diametrically opposed to second cutting edge (FIG. 19 lips 34' and 39').

Regarding claim 19, Jarvis discloses a tapered surface of the collecting element (surface of flutes 32' and 33') and a collecting surface facing away from the shaft (FIG. 18).

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*Response to Arguments*

3. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Jessica R Baxter  
Examiner  
Art Unit 3731

jrb  
December 30, 2002

  
KEVIN T. TRUONG  
PRIMARY EXAMINER  
12/30/02